

FEDERAL ELECTION COMMISSION

COOLIDGE REAGAN FOUNDATION)
1629 K Street NW, Suite 300)
Washington, DC 20006)
<i>Complainant,</i>)
)
v.)
)
HILLARY FOR AMERICA,)
FEC ID Number C00575795)
P.O. Box 5256)
New York, NY 10185-5256)
Elizabeth Jones, Treasurer, and)
)
DNC SERVICES CORPORATION /)
DEMOCRATIC NATIONAL COMMITTEE)
FEC ID Number C00010603)
430 South Capitol Street SE)
Washington, D.C., 20003)
Virginia McGregor, Treasurer,)
)
<i>Respondents.</i>)
)

VERIFIED COMPLAINT

Introduction

Complainant Coolidge Reagan Foundation filed an administrative complaint against Respondents Hillary for America (“HFA”) and the Democratic National Committee (“DNC”) in August 2018, alleging they filed false disclosure forms with the Federal Election Commission (“FEC”). Specifically, HFA and the DNC had tried to mask their payments to Fusion GPS to prepare the infamous “Steele Dossier”—a collection of lies originating primarily from Russian sources which HFA and the DNC obtained in a desperate eleventh-hour gambit to smear Donald Trump in the final stages of the 2016 presidential election.

Rather than forthrightly acknowledging they had paid Fusion GPS to prepare the Steele Dossier, HFA and the DNC instead attempted to hide their involvement in its preparation and

connection to Fusion GPS. They channeled their payments to Fusion GPS through their law firm, Perkins Coie, and the DNC falsely reported those payments to the FEC as being for legal services and related purposes. The FEC found probable cause to believe HFA and the DNC violated federal campaign finance law by falsely reporting the purpose of their payments through Perkins Coie to Fusion GPS.

Caught in their lie, HFA and the DNC scurried to contain the crisis by entering into Conciliation Agreements with the FEC. Each agreement states, “Solely for the purpose of settling this matter expeditiously and to avoid further legal costs, Respondent does not concede, but will not further contest the Commission’s finding of probable cause to believe.” HFA and the DNC have breached this agreement by now claiming in federal court that Fusion GPS’s opposition research into Trump fell within the legal services Perkins Coie was providing and is protected by attorney-client privilege. HFA’s and the DNC’s renewed attempt to contend Fusion GPS’s preparation of the Steele Dossier somehow constitutes legal services falling within attorney-client privilege violates their agreement to refrain from contesting the Commission’s probable-cause finding that Fusion GPS had not been providing legal services.

PARTIES

1. Complainant COOLIDGE REAGAN FOUNDATION (“the Foundation”) is a 501(c)(3) non-profit foundation dedicated to protecting the First Amendment and promoting free and fair elections.

2. Respondent HILLARY FOR AMERICA (“HFA”) is a presidential candidate campaign committee registered with the FEC for 2016 Democratic nominee for President Hillary Rodham Clinton. Its Treasurer is Elizabeth Jones.

3. Respondent DNC SERVICES CORPORATION / DEMOCRATIC NATIONAL COMMITTEE (“DNC”) is a national political party committee affiliated with the Democratic Party and registered with the FEC. Its Treasurer is Virginia McGregor.

HFA’s and the DNC’s Conciliation Agreements with the FEC

4. In August 2018, the Foundation filed an Administrative Complaint with the FEC pursuant to 52 U.S.C. § 30109(a)(1) regarding HFA, the DNC, Perkins Coie, and Christopher Steele. *See* Verified Complaint (Aug. 1, 2018), *Coolidge Reagan Foundation v. Steele*, FEC MUR 7449. A true and complete copy of the Administrative Complaint is attached as Exhibit 1.

5. The complaint Alleged HFA and the DNC used HFA’s law firm, Perkins Coie, to hire and funnel over \$1 million to “outside research firms” such as Fusion GPS “to perform potentially sensitive, controversial, or politically embarrassing” opposition research into Donald Trump. *Id.* ¶¶ 7-8, 12. This opposition research was “for political purposes, to find damaging information concerning [Trump] that could be used against him in the campaign.” *Id.* ¶ 10.

6. The Administrative Complaint alleged, “Because Fusion GPS’s work was to further HFA’s and the DNC’s political and campaign-related goals, rather than for the purpose of providing legal advice or assisting with impending or potential litigation, it was not covered by attorney-client, work-product, or any other privileges.” *Id.* ¶ 11.

7. The Administrative Complaint pointed out HFA reported all of its payments to Perkins Coie throughout 2016 and 2017—including payments made in connection with Fusion GPS—as being for “LEGAL SERVICES.” *Id.* ¶ 14. The DNC reported its payments to Perkins Coie as being for a variety of purposes, including “LEGAL AND COMPLIANCE CONSULTING” and “LEGAL AND COMPLIANCE SERVICES,” but none of these claimed

purposes had anything to do with opposition research, background investigations, Fusion GPS, or Donald Trump. *Id.* ¶ 15.

8. The Administrative Complaint declared, “By intentionally obscuring their payments to Perkins Coie and failing to disclose the true purpose of those payments, HFA and the DNC were able to avoid publicly reporting on their statutorily required FEC disclosure forms the fact that they were paying Fusion GPS to perform opposition research on Trump with the intent of influencing the outcome of the 2016 presidential election.” *Id.* ¶ 13.

9. The Administrative Complaint demonstrated HFA and the DNC violated 52 U.S.C. §§ 30104(b)(5)(A) and 30104(b)(6)(B)(v) by failing to accurately report the purpose of a substantial amount of their payments to Perkins Coie was for opposition research, and Fusion GPS was the actual recipient of those payments. *See* Administrative Complaint at 10-14 (Counts I-II).

10. The FEC accepted the Administrative Complaint on August 8, 2018, and designed it Matter Under Review #7449. A true and complete copy of the FEC’s acknowledgement letter is included as Exhibit 2.

11. Several years later, following a thorough investigation, the FEC found probable cause to believe HFA “violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b)(4)(i) by failing to report the proper purpose of the funds the DNC paid to Perkins Coie for opposition research performed by Fusion GPS.” Letter from FEC Ass’t Gen. Counsel Mark Allen to Graham Wilson (Dec. 17, 2021). A true and complete copy of the letter is attached as Exhibit 3.

12. The FEC likewise found probable cause to believe the DNC “violated 52 U.S.C. § 30104(b)(5)(A) and (b)(6)(B)(v) and 11 C.F.R. § 104.3(b)(3)(i) by failing to report the proper purpose of the funds the DNC paid to Perkins Coie for opposition research performed by Fusion

GPS.” Letter from FEC Ass’t Gen. Counsel Mark Allen to Graham Wilson (Dec. 17, 2021). A true and complete copy of the letter is attached as Exhibit 4.

13. The FEC’s General Counsel explained, “The investigation revealed that the total amount that the DNC spent on Fusion’s opposition research but reported as ‘legal and compliance consulting’ was \$777,907.97. Similarly, the investigation revealed that the total amount that HFA spent on Fusion’s opposition research but reported as ‘legal services’ was \$180,000.” Second General Counsel’s Report, *DNC Servs. Corp/Democratic National Committee*, MURs 7291 & 7449, at 2-3 (June 24, 2021). A true and correct copy of the Second General Counsel’s Report is attached as Exhibit 5.

14. The General Counsel’s report continued, “The invoices demonstrate that Fusion was providing opposition research services related to Trump and Russia, and there is no evidence that Fusion provided services other than this opposition research.” *Id.* at 4. It declared, “[T]he documentary evidence provided in discovery confirms the violations the Commission found at the reason to believe stage.” *Id.*

15. In February 2022, both HFA and the DNC executed Conciliation Agreements with the FEC concerning their false filings and legal violations.

16. HFA’s Conciliation Agreement expressly declared that, following an investigation, the FEC “found probable cause to believe” HFA had violated 52 U.S.C. § 30104(b)(5)(A) and its accompanying regulation “by misreporting the purpose of certain disbursements.” Conciliation Agreement, *In re Hillary for America, et al.*, at 1. MURs 7291 and 7449 (Feb. 22, 2022) [hereinafter, “HFA Agreement”]. A true and complete copy of the HFA Agreement is attached as Exhibit 6.

17. The DNC’s Conciliation Agreement contained the same language, but went further, specifying the FEC also found probable cause to believe the DNC’s “misreporting” had “violated 52 U.S.C. § 30104 (b)(6)(B)(v).” Conciliation Agreement, *In re* DNC Servs. Corp./DNC, et al., at 1, MURs 7291 and 7449 (Feb. 22, 2022) [hereinafter, “DNC Agreement”]. A true and complete copy of the DNC Agreement is attached as Exhibit 7.

18. Both agreements declare, “Solely for the purpose of settling this matter expeditiously and to avoid further legal costs, Respondent does not concede, **but will not further contest the Commission’s finding of probable cause to believe.**” HFA Agreement ¶ VI (emphasis added); DNC Agreement ¶ VI (emphasis added).

19. HFA agreed to pay a fine of \$8,000 and refrain from future violations of 52 U.S.C. § 30104(b)(5)(A). HFA Agreement ¶ VII(1)-(2). The DNC agreed to pay a fine of \$105,000 and refrain from future violations of 52 U.S.C. § 30104(b)(5)(A) and (b)(6)(B)(v). DNC Agreement ¶ VII(1)-(2).

HFA’s and the DNC’s Breaches of Their Conciliation Agreements

20. *United States v. Sussmann*, No. 1:21-CR-582 (D.D.C. filed Sept. 16, 2021), is a criminal case against former Perkins Coie attorney Michael Sussmann. The Indictment alleges Sussmann violated 18 U.S.C. § 1001 by lying to the FBI. Specifically, Sussmann is accused of telling the FBI he was not representing any client when he provided information to the FBI concerning Donald Trump’s purported links to Russia—links which the FBI ultimately rejected as spurious. The indictment alleges Sussmann had in fact been representing the Clinton campaign at the time and provided the information to the FBI in connection with that representation, on his client’s behalf.

21. The Government has subpoenaed certain documents from Perkins Coie concerning Fusion GPS and its investigation of Trump and preparation of the Steele dossier in connection with this prosecution.

22. HFA and the DNC filed motions to intervene in the lawsuit—which the district court granted—to assert attorney-client privilege and work-product doctrine over those documents.

23. A true and complete copy of HFA’s motion is attached as Exhibit 8. *See* Hillary for America’s Motion to Intervene, *United States v. Sussman*, No. 21-582 (CRC), D.E. #86, at 1 (D.D.C. Apr. 19, 2022) [hereinafter, “HFA Motion”].

24. A true and complete copy of the DNC’s motion is attached as Exhibit 9. Democratic National Committee’s Motion to Intervene, *United States v. Sussman*, No. 21-582 (CRC), D.E. #89, at 1 (D.D.C. Apr. 19, 2022) [hereinafter, “DNC Motion”].

25. HFA’s motion was accompanied by the Declaration of John Podesta, formally asserting attorney-client privilege and work-product doctrine over Fusion GPS documents. A true and complete copy of the Podesta Declaration is attached as Exhibit 10.

26. HFA’s motion was also accompanied by the Declaration of Campaign Manager Robert E. Mook. A true and complete copy of the Mook Declaration is Attached as Exhibit 11. Mook declared under penalty of perjury all of the work Perkins Coie performed, including through its contractors, “was for the purpose of providing legal services and legal advice to HFA.” Mook Decl. at ¶ 6.

27. Mook testified under oath in the *Sussmann* trial that Hillary Clinton personally approved the plan for the campaign to share opposition research the campaign had compiled purporting to link Trump to Russia—links the FBI subsequently concluded were unfounded

partisan lies—with third parties including the press. *See, e.g.,* Marshall Cohen, *Hillary Clinton Personally Approved Plan to Share Trump-Russia Allegation with the Press in 2016, Campaign Manager Says*, CNN (6:20 ET, May 20, 2022), <https://www.cnn.com/2022/05/20/politics/hillary-clinton-robbly-mook-fbi/index.html>. The campaign’s public weaponization of its purportedly derogatory information about Trump further confirms it was not obtained for legal research purposes (and its public disclosure of such information would vitiate any attempt to assert privilege over it).

CAUSES OF ACTION

COUNT I – BREACH OF CONCILIATION AGREEMENTS Against Respondents HFA and the DNC

28. The foregoing paragraphs are re-alleged as if fully set forth herein.

29. The FEC found probable cause to believe HFA and the DNC violated federal law by filing false campaign finance disclosure reports with the Commission. Specifically, HFA and the DNC falsely claimed payments made to Perkins Coie in connection with Fusion GPS’s opposition research and investigations into Trump to prepare the salacious and fraudulent Steele Dossier were for the purpose of legal services. In reality, Fusion GPS’s investigation into Trump and preparation of the Steele Dossier were for political purposes and not for the purpose of enabling Perkins Coie to provide legal advice or in connection with litigation.

30. HFA and the DNC entered into Conciliation Agreements with the FEC stating, “Solely for the purpose of settling this matter expeditiously and to avoid further legal costs, Respondent does not concede, **but will not further contest the Commission’s finding of probable cause to believe.**” HFA Agreement ¶ VI (emphasis added); DNC Agreement ¶ VI (emphasis added).

31. Despite these agreements, both HFA and the DNC have intervened in *United States v. Sussmann* to assert attorney-client privilege and work-product doctrine over documents Fusion GPS prepared and provided in connection with its opposition research into Trump and preparation of the Steele Dossier.

32. HFA's and the DNC's intervention, arguments, and supporting declarations in *United States v. Sussmann* violate their agreement to "not further contest the Commission's finding of probable cause to believe" Fusion GPS's opposition research into Trump and preparation of the Steele Dossier did not constitute legal services.

33. The Conciliation Agreements specify the Commission may "review compliance" with the agreements "on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1)." HFA Conciliation Agreement, ¶ IX; DNC Conciliation Agreement, ¶ IX.

WHEREFORE the Commission should conclude HFA and the DNC breached their Conciliation Agreements with the FEC and institute a civil action for relief in the U.S. District Court for the District of Columbia.

CONCLUSION


For these reasons, Complainant Coolidge Reagan Foundation respectfully requests the Federal Election Commission commence enforcement proceedings against Respondents.

VERIFICATION

I declare under penalty of perjury the foregoing is true and correct to the best of my personal knowledge.

Dated June 15, 2022

Respectfully submitted,


Dan Backer, Esq.

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Counsel for Complainant

Coolidge Reagan Foundation

COMPLETED BEFORE A NOTARY PUBLIC

State of FL

City of Lighthouse Point

County of Broward

Subscribed and sworn to before me on this 15 day of June, 2022.

My Commission expires on 1/16/2026.



Anthony Mojica
Comm.:HH 216615
Expires: Jan. 16, 2026
Notary Public - State of Florida